REMARKS

According to the Office Action mailed June 4, 2008, Claims 1, 37-45, and 47-69 are pending in the current application. With this amendment, Applicants have withdrawn claims 1, 37-38, 40, 49-55, and 57-66. Additionally, Applicants amended claims 39, 41-45, 47-48 and 56 in order to conform with the group selection the Applicants made and clarify the antecedent basis for terms in the claims. These amendments have not added new matter.

The Examiner has alleged that the claims are directed to patentably distinct inventions and has required restriction to one invention under 35 U.S.C. § 121. Specifically, the Examiner has required restriction to one of the following inventions:

Group I	Claims 1, 37, 39, 41-45, 47, 48, 56, 62-65, drawn in part to a method of treating sepsis (including abdominal sepsis) comprising administering a chemically modified or mutated EPO; and the pharmaceutical composition comprising a chemically modified EPO or a mutated EPO.
Group II	Claims 38, 41-45, 47, 48, 56 and 66, drawn in part to a method of enhancing wound healing comprising administering a chemically modified or mutated EPO.
Group III	Claims 39, 41-45, 47, 48, 56 and 67, drawn in part to a method of treating adhesion, abnormal fibrous band formation, formation of a connection between organs and scarring comprising administering a chemically modified or mutated EPO.
Group IV	Claims 39, 41-45, 47, 48 and 56 drawn in part to a method for treating an inflammatory condition of the prostate comprising administering a chemically modified or mutated EPO.
Group V	Claims 39, 41-45, 47, 48 and 56 drawn in part to a method for treating an inflammatory condition of the urinary tract comprising administering a chemically modified or mutated EPO.
Group VI	Claims 39, 41-45, 47, 48 and 56 drawn in part to a method for treating an inflammatory condition of the visceral smooth muscle comprising administering a chemically modified or mutated EPO.
Group VII	Claims 40-45, 47, 48 and 56 drawn in part to a method of treating a condition associated with elevated IL-6 comprising administering a chemically modified or mutated EPO.
Group VIII	Claims 49-61 drawn to a method for treating the effects of a condition associated with an effect of a pro-inflammatory cytokines comprising administering a chemically modified or mutated EPO having an attached PEG molecule.
Group IX	Claims 68 and 69, drawn to a method of testing chemically

modified or mutated EPO.

Applicants hereby elect with traverse to prosecute Group III, claims 39, 41-45, 47, 48, 56 and 67. Applicants note that claim 39 is drawn in part to a method of treating adhesion, abnormal fibrous band formation, formation of a connection between organs and scarring comprising administering an erythropoietin that is optionally chemically modified or mutated. Applicants have amended claims 39, 41-45, 47-48, and 56 to reflect the Applicants' election and have withdrawn claims 1-38, 40, 49-55, and 57-66.

Applicants request that Group IX be examined together with elected Group III. The method of Group III (see claim 39) requires that erythropoietin that is optionally chemically modified or mutated is administered to treat adhesions, abnormal fibrous band formation, formation of a connection between organs and scarring.

Similarly, the method of testing of Group IX (claim 68) determines whether a chemically modified or mutated EPO treats, prevents, delays the onset of, or reduces complications associated with adhesions by (1) inducing sepsis, adhesions or inflammation in a mammal; (2) administering the chemically modified or mutated EPO to the mammal; and (3) determining the adhesion score in the mammal to determine if less adhesions resulted from the administration of the chemically modified or mutated EPO. Thus, examining both groups together would not impose and undue burden on the Examiner (See M.P.E.P. § 803).

The Examiner has further required that the Applicants elect one chemically modified species from claim 42 and one mutated species from claims 43, 44, or 45.

Applicants hereby elect a chemically modified EPO having (vii) one or more modified lysine residues or a modification of the N-terminal amino group as the chemically modified species. Claims 39, 41, 42, 43, 44, 45, 47, 48, 56, and 67 read upon this species.

Applicants also elect S100E as the mutated species. Claims 39, 41, 42, 43, 44, 47, 48, 56, and 67 read upon this species.

Upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

CONCLUSION

Applicants respectfully request consideration and entry of the amendments and remarks into the file for the above-identified application.

Respectfully submitted,

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